

REMARKS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1-2, 4-7, 9-12, 14-17, and 19-24 are pending in this application. Claims 1, 6, 11, 12, and 16 are amended by the present amendment.

Amendments to the claims find support in the application as originally filed, at least in the figures at Fig. 9, steps SP12 and SP16. Thus, no new matter is added.

In the outstanding Office Action, Claims 1, 2, 4-7, 9-12, 14-17, and 19-24 were rejected under 35 U.S.C. § 112, second paragraph; and Claims 1, 2, 4-7, 9-12, 14-17, and 19-24 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent 6,263,317 to Sharp et al. (herein "Sharp") in view of U.S. Patent 5,839,076 to Hafner et al. (herein "Hafner").

Initially, Applicants and Applicants' representative gratefully acknowledge the courtesy of a personal interview with Examiner Shaawat and Supervisory Patent Examiner Zeender on April 1, 2008. During the interview, the rejections in the outstanding Office Action and differences between the claimed inventions and references in the Office Action were discussed. In particular, it was discussed that each of the cited references describes only one sales channel, and therefore, it would not have been obvious to one of skill in the art at the time of the invention to combine the cited references to obtain the claimed inventions. Further, with respect to the rejection under 35 U.S.C. § 112, second paragraph, the claim language was discussed and a claim amendment was discussed to alternatively recite a feature of Claims 1, 6, 11, and 16 to overcome the rejections under 35 U.S.C. § 112, second paragraph. Comments and claim amendments discussed during the interview are reiterated below.

Claim 1 is directed to a distribution management device that includes, in part, means for receiving via a network first order information of merchandise and second order information of the merchandise. The first order information is formed based on a first purchase request received via a first sales channel that uses the network. The second order information is formed based on a second purchase request received via a second sales channel which is a point-of-sale location that does not use the network. The distribution management device also includes means for instructing a supplier of said merchandise to supply the merchandise based on the stock control information indicating through which of the first sales channel and the second sales channel the purchase request was received. Independent Claims 1, 6, 11, and 16 include similar features.

As discussed during the interview, Applicants' Figure 2 shows a non-limiting embodiment of a distribution management center 2 (e.g., distribution management device) that includes means for receiving via an Internet 3 (e.g., a network) order information of merchandise. For example, according to Figure 2, an end user may make a purchase via a client computer 7 connected to the Internet or via a direct sales store 11 connected to the Internet. Alternatively, the end user may make a purchase via a telephone 9 connected to a call center 8 that is connected to the Internet or through a retail store 10 that is connected to the Internet. Thus, in this example, each of the client computer 7, the telephone 9, the direct sales store 11, and the retail store 10 represents different sales channels through which a purchase order may be received. However, in the sales channel operated via the client computer 7, the purchase request is received via the network while the retail store 10 is a point-of-sale location in which the purchase request is not received via the network.

Further, according to the example of Applicants' Figure 2, the distribution management center 2 may instruct a delivery company 6 (e.g., a supplier of said merchandise) to supply merchandise based on stock control information indicating through

which of the first sales channel and the second sales channel the purchase request was received. Further, independent Claims 1, 6, 11, and 16 are amended to recite “obtaining” instead of “grasping,” as discussed during the interview. Accordingly, it is respectfully requested the rejections under 35 U.S.C. § 112, second paragraph, be withdrawn.

In addition, Applicants respectfully traverse the rejection of Claims 1, 2, 4-7, 9-12, 14-17, and 19-24 under 35 U.S.C. § 103(a) as unpatentable over Sharp and Hafner.

As discussed during the interview, Sharp and Hafner fail to teach or suggest each of the features of the independent claims. Further, Applicants respectfully traverse the taking of Official notice in the Office Action at page 4, last paragraph.

Sharp describes a computer system and method of operating the computer system that allows manufacturers and distributors of products to participate in the e-commerce market place without violating existing distribution agreements.¹ Sharp points out that there is a problem in a conventional e-commerce system when a customer places an order through an e-commerce website, and the order is directly filled by the owner of the website. According to Sharp, allowing website owners to obtain the entire credit for a sale may be undesirable for both manufacturers and distributors of the product, as it may create internal competition between the website owner, the manufacturers, and the distributor at various levels in the distribution chain.² To overcome this problem, Sharp describes providing a

web-based system where customers can place orders for brand-name products and then allocate orders to manufacturers, distributors and retailers according to distribution channel protocols defined by the manufacturer. This ensures that sales of brand-name goods and services via the Internet do not violate existing distribution agreements between the manufacturers and their respective distributors and retailers.³

¹ Sharp at Abstract and column 1, lines 35-46.

² Sharp at col. 1, lines 35-43.

³ Sharp, at col. 1, lines 54-62.

In addition, Sharp indicates that a customer using client computer 120 can access an e-commerce website hosted on a server computer 110 via a computer network 150.⁴ Further, Sharp indicates that once the customer has entered and confirmed the order, a computer program executed on the server computer processes the order and, according to a distribution channel conflict resolution scheme, an order can be allocated either to the owner of the website, or to a distributor selected according to a protocol, or to the distributor for direct distribution.⁵

In other words, Sharp describes a system that allows purchases to be made by only one sales channel, that is via a website on the Internet. Further, to avoid unfairness to retailers and manufacturers, the method of Sharp includes a distribution channel conflict resolution scheme that can allocate on-line purchases to different entities according to a protocol. Thus, although a retailer and a direct distributor may be allocated proceeds from an on-line purchase, Sharp only describes a single sales channel (i.e., the on-line sales channel). Thus, Sharp neither describes nor otherwise suggests plural sales channels. Accordingly, it is respectfully submitted that one of skill in the art would have found no motivation in Sharp to extend Sharp to address the claimed inventions, which require first and second sales channels and which require stock control information indicating through which of the first and second sales channels a purchase request was received.

Hafner describes a supplier-driven commerce transaction processing system for processing business transactions between a supplier and a retailer.⁶ In particular, Hafner describes an inventory management scheme that allows a supplier to interact with and manage retailer inventory automatically without significant retailer intervention.⁷ Further, Hafner indicates that a replenishment system 10 may receive inventory information from a

⁴ Sharp at col. 3, lines 6-8.

⁵ Sharp at col. 3, lines 20-29.

⁶ Hafner at Title and Abstract.

⁷ Hafner, at col. 1, lines 26-28.

retailer host 60 and the inventory information may be point of sale data which may be transferred as 852 or 846 EDI document and inventory adjustments or transferred as a 947 EDI document.⁸ In other words, Hafner describes a method for a supplier to automatically replenish stock at a retailer. Accordingly, Hafner only describes a single sales channel, that is a retail sales channel, and Hafner fails to describe plural sales channels. Thus, Hafner also fails to describe or otherwise suggest first and second sales channels or information indicating a sales channel through which a purchase order was received.

Accordingly, Applicants respectfully submit that independent Claims 1, 6, 11, and 16, patentably define over Sharp and Hafner for the reasons discussed above.

In addition, as discussed during the interview, Applicants respectfully traverse the taking of Official notice in the Office Action, at page 4, last paragraph. The Office Action takes Official notice that “indicating through which sales channel a purchase order was received is old and well known in the art.”⁹ On the other hand, as discussed above, the cited references each describe only a single sales channel and fail to teach or suggest plural sales channels or stock information indicating a sales channel. Further, Applicants respectfully assert that indicating through which sales channel a purchase order was received was neither common knowledge nor well known in the art at the time of Applicants’ invention. For example, prior to Applicants’ invention, the coordination of the supply of merchandise from suppliers of merchandise amongst plural sales channels was not identified as a problem.

Applicants respectfully submit that, as noted in the MPEP § 2144.03, “[o]fficial notice unsupported by documentary evidence should only be taken by the Examiner where the facts asserted to be well known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well known.”¹⁰ As neither of the

⁸ Hafner, at col. 3, line 64 to col. 4, line 7, and Fig. 1.

⁹ Office Action at page 4, last para.

¹⁰ MPEP § 2144.03(A).

references cited in the Office Action describe or suggest more than one sales channel or stock control information indicating through which of plural sales channels a purchase request was received, it appears that the problems of dealing with plural sales channels identified by the Applicants¹¹ were not identified by the authors of the cited references.

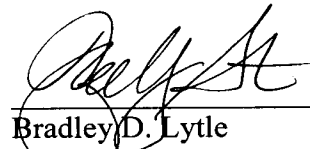
Accordingly, Applicants respectfully traverse the taking of Official Notice and respectfully submit that independent Claims 1, 6, 11, and 16 patentably define over Sharp and Hafner for that independent reason, as well as the separate reasons discussed in the previous section.

Accordingly, Applicants respectfully submit that independent Claims 1, 6, 11, and 16, and claims depending therefrom, are allowable.

Consequently, in light of the above discussion and in view of the present amendment this application is believed to be in condition for allowance and an early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Bradley D. Lytle
Attorney of Record
Registration No. 40,073

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 06/04)
BDL/ZS:sjh:yst

Zachary S. Stern
Registration No. 54,719

I:\ATTY\ZS\20's\204\204078US\204078US-AM-2APR08.DOC

¹¹ For example, see Specification at page 3, line 10 to page 4, line 3.